

AMENDED IN SENATE APRIL 4, 2006

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1785

Introduced by Senator Figueroa

February 24, 2006

An act to add Section 1648 to the Health and Safety Code, relating to human milk, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1785, as amended, Figueroa. Human milk.

Existing law provides that the procurement, processing, distribution, or use of human milk for human consumption constitutes the rendition of a service, and not a sale of the human milk for any purpose.

Existing law provides for the licensure and regulation of tissue banks by the State Department of Health Services.

This bill would require a hospital that collects, processes, stores, or distributes human milk *collected from a mother exclusively for her own child* to comply with specified standards that are in effect on the effective date of the bill. It would also exempt a hospital from the tissue bank licensure and regulation requirements for the purpose of collecting, processing, storing, or distributing human milk *collected from a mother exclusively for her own child*. The bill would exempt from any screening test requirement human milk ~~to be given to the infant of the woman who expressed the milk~~ *collected from a mother exclusively for her own child*.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) There is consensus among health care experts and
4 institutions that breastfeeding is the superior method of feeding
5 and nurturing infants.
6 (b) The American Dietetic Association states that “human
7 milk provides optimal nutrition to the infant, with its dynamic
8 composition and the appropriate balance of nutrients provided in
9 easily digestible and bioavailable form.”
10 (c) According to the American Academy of Pediatrics 2005
11 policy statement, “human milk is species-specific, and all
12 substitute feeding preparations differ markedly from it, making
13 human milk uniquely superior for infant feeding.” The policy
14 statement also asserts that “research in developed and developing
15 countries of the world, including middle-class populations in
16 developed countries, provides strong evidence that human milk
17 feeding decreases the incidence and severity of a wide range of
18 infectious diseases, including bacterial meningitis, bacteremia
19 diarrhea, respiratory tract infection, necrotizing enterocolitis,
20 otitis media, urinary tract infection, and late-onset sepsis in
21 preterm infants. In addition, postneonatal infant mortality rates in
22 the United States are reduced by 21 percent in breastfed infants.
23 Some studies suggest decreased rates of sudden infant death
24 syndrome in the first year of life and reduction of
25 insulin-dependent (type 1) and noninsulin-dependent (type 2)
26 diabetes mellitus, lymphoma, leukemia, Hodgkin’s disease,
27 overweight and obesity, hypercholesterolemia, and asthma in
28 older children and adults who were breastfed, compared with
29 individuals who were not breastfed.
30 (d) The American Academy of Pediatrics recommends that
31 infants be exclusively breastfed for approximately six months
32 before being introduced to complementary foods.
33 (e) Too few women in California exclusively breastfeed their
34 infants in the early postpartum period, let alone in the first six

1 months of life, as recommended by the American Academy of
2 Pediatrics.

3 (f) There are also racial and ethnic disparities with regard to
4 breastfeeding rates. While 61.8 percent (down from 64 percent in
5 2001) of white women in California are exclusively
6 breastfeeding in the hospital, only 40 percent of Asians, 27
7 percent of Pacific Islanders, 30 percent of African-American
8 women, and 29 percent (down from 30 percent in 2001) of
9 Latinas are doing so.

10 (g) In “Breastfeeding: Investing in California’s Future,” the
11 Breastfeeding Promotion Committee Report to the California
12 Department of Health Services Primary Care and Family Health
13 (1996) there was a finding that “... women look to health care
14 providers for breastfeeding information and support; however,
15 health care systems, policies, and personnel often unknowingly
16 interfere with the initiation and continuation of breastfeeding.”
17 This report also states that health care professionals are in a key
18 position to effect breastfeeding success, and promotional efforts
19 will be successful only if women who are encouraged to
20 breastfeed encounter providers who are able to respond to their
21 needs.

22 (h) Current California law inadvertently discourages the
23 feeding of breast milk to infants in the hospital by requiring a
24 hospital that permits a mother to store her milk in a hospital
25 refrigerator to obtain and maintain a full tissue bank license.

26 (i) Hospitals that cannot complete the process for obtaining a
27 full tissue bank license cannot legally allow a mother to store her
28 milk in a refrigerator on the hospital premises.

29 (j) A mother whose infant is admitted to a hospital may not be
30 able to be physically present to breastfeed the infant at each
31 feeding time, and may wish to store her milk in a refrigerator or
32 freezer on the hospital premises. Many hospitals wish to permit
33 mothers to do this, but are unable to do so due to the lengthy and
34 complicated process required to obtain a full tissue bank license
35 from the State of California.

36 (k) It is the intent of the Legislature to adopt policies that
37 promote and encourage the breastfeeding of all infants, including
38 those who are hospitalized.

39 SEC. 2. Section 1648 is added to the Health and Safety Code,
40 to read:

1 1648. (a) A hospital that collects, processes, stores, or
2 distributes human milk *collected from a mother exclusively for*
3 *her own child* shall comply with the standards established for the
4 collection, processing, storage, or distribution of human milk that
5 are in effect on the effective date of this section by the Human
6 Milk Banking Association of North America or other nationally
7 recognized organization.

8 (b) A hospital shall be exempt from the requirements of
9 Chapter 4.1 (commencing with Section 1635) for the purpose of
10 collecting, processing, storing, or distributing human milk
11 *collected from a mother exclusively for her own child*.

12 (c) Notwithstanding any other provision of law, no screening
13 tests shall be required to be performed on human milk ~~given to~~
14 ~~the infant of the woman who expressed it~~ *collected from a*
15 *mother exclusively for her own child*.

16 SEC. 3. This act is an urgency statute necessary for the
17 immediate preservation of the public peace, health, or safety
18 within the meaning of Article IV of the Constitution and shall go
19 into immediate effect. The facts constituting the necessity are:

20 In order that needed statutory changes allowing hospitals to
21 comply with specified standards for the collection, processing,
22 storage, and distribution of human milk *collected from a mother*
23 *exclusively for her own child* can be enacted at the earliest
24 possible time, it is necessary that this act take effect immediately.